

The House Committee on Judiciary Non-Civil offers the following substitute to HB 243:

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes
2 against the person, so as to revise the definition of feticide; to prohibit the voluntary
3 manslaughter of an unborn child; to prohibit assaults and batteries of unborn children under
4 certain circumstances; to provide for punishment for persons convicted of such offenses; to
5 amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating
6 to serious traffic offenses, so as to remove the requirement that an unborn child be quick in
7 the definition of feticide by vehicle; to amend Article 1 of Chapter 7 of Title 52 of the
8 Official Code of Georgia Annotated, relating to general provisions concerning registration,
9 operation, and sale of watercraft, so as to remove the requirement that an unborn child be
10 quick in the definition of feticide by vessel; to provide for definitions; to provide for
11 exceptions; to provide for applicability; to provide an effective date; to repeal conflicting
12 laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against
16 the person, is amended by adding at the end of Article 2, relating to assault and battery, new
17 Code Sections 16-5-28 and 16-5-29 to read as follows:

18 "16-5-28.

19 (a) For the purposes of this Code section, the term 'unborn child' means a member of the
20 species homo sapiens at any stage of development who is carried in the womb.

21 (b) A person commits the offense of assault of an unborn child when such person, without
22 legal justification, attempts to inflict violent injury to an unborn child who is subsequently
23 born alive.

24 (c) Any person convicted of the offense of assault of an unborn child shall be guilty of a
25 misdemeanor.

(d) This Code section shall not apply to:

(1) Acts by any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which consent is implied by law; or

(2) Acts by any person for any medical treatment of the pregnant woman or her unborn child.

16-5-29.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

(b) A person commits the offense of battery of an unborn child when such person, without legal justification, intentionally inflicts physical harm upon an unborn child who is subsequently born alive.

(c) A person convicted of the offense of battery of an unborn child shall be guilty of a misdemeanor.

(d) This Code section shall not apply to:

(1) Acts by any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which consent is implied by law; or

(2) Acts by any person for any medical treatment of the pregnant woman or her unborn child."

SECTION 2.

Said chapter is further amended by striking Code Section 16-5-80, relating to feticide, and inserting in lieu thereof a new Code Section 16-5-80 to read as follows:

"16-5-80.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

(b) A person commits the offense of feticide if he or she willfully kills and without legal justification causes the death of an unborn child so far developed as to be ordinarily called 'quick' by any injury to the mother of such child, which would be murder if it resulted in the death of such mother, or if he or she, when in the commission of a felony, causes the death of an unborn child.

(c) A person convicted of the offense of feticide shall be punished by imprisonment for life.

(d) A person commits the offense of voluntary manslaughter of an unborn child when such person causes the death of an unborn child under circumstances which would otherwise be feticide and if such person acts solely as the result of a sudden, violent, and irresistible passion resulting from serious provocation sufficient to excite such passion in a reasonable person; provided, however, that, if there should have been an interval between the provocation and the killing sufficient for the voice of reason and humanity to be heard, of which the jury in all cases shall be the judge, the killing shall be attributed to deliberate revenge and be punished as feticide.

(e) A person convicted of the offense of voluntary manslaughter of an unborn child shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than 20 years.

(f) This Code section shall not apply to:

(1) Acts by any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which consent is implied by law;

(2) Acts by any person for any medical treatment of the pregnant woman or her unborn child; or

(3) Acts by any woman with respect to her unborn child."

SECTION 3.

Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to serious traffic offenses, is amended by striking Code Section 40-6-393.1, relating to feticide by vehicle, and inserting in lieu thereof a new Code Section 40-6-393.1 to read as follows:

"40-6-393.1.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

~~(a)~~(b)(1) A person commits the offense of feticide by vehicle in the first degree if he or she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~ by any injury to the mother of such child through the violation of Code Section 40-6-390 or 40-6-391, which would be homicide by vehicle in the first degree as provided in subsection (a) or (c) of Code Section 40-6-393 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vehicle in the first degree shall be punished by imprisonment for not less than two years nor more than 15 years.

~~(b)~~(c)(1) A person commits the offense of feticide by vehicle in the second degree if he or she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~ by any injury to the mother of such child by violating any provision of this title

other than Code Section 40-6-390 or 40-6-391, which would be homicide by vehicle in the second degree as provided in subsection (b) of Code Section 40-6-393 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vehicle in the second degree shall be punished as provided in Code Section 17-10-3."

SECTION 4.

Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to general provisions concerning registration, operation, and sale of watercraft, is amended by striking Code Section 52-7-12.3, relating to feticide by vessel, and inserting in lieu thereof a new Code Section 52-7-12.3 to read as follows:

"52-7-12.3.

(a) For the purposes of this Code section, the term 'unborn child' means a member of the species homo sapiens at any stage of development who is carried in the womb.

~~(a)~~(b)(1) A person commits the offense of feticide by vessel in the first degree if he or she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~ by any injury to the mother of such child through the violation of subsection (j) of Code Section 52-7-8.2 or Code Section 52-7-12 or Code Section 52-7-12.1 or subsection (b) of Code Section 52-7-13 or subsection (a) of Code Section 52-7-14 or subsection (c) of Code Section 52-7-25, which would be homicide by vessel in the first degree as provided in subsection (a) of Code Section 52-7-12.2 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vessel in the first degree shall be guilty of a felony and shall be punished by imprisonment for not less than two years nor more than 15 years.

~~(b)~~(c)(1) A person commits the offense of feticide by vessel in the second degree if he or she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~ by any injury to the mother of such child by violating any provision of this title other than subsection (j) of Code Section 52-7-8.2 or Code Section 52-7-12 or Code Section 52-7-12.1 or subsection (b) of Code Section 52-7-13 or subsection (a) of Code Section 52-7-14 or subsection (c) of Code Section 52-7-25, which would be homicide by vessel in the second degree as provided in subsection (b) of Code Section 52-7-12.2 if it resulted in the death of such mother.

(2) A person convicted of the offense of feticide by vessel in the second degree shall be guilty of a misdemeanor and shall be punished as provided in Code Section 17-10-3."

SECTION 5.

- 1 This Act shall become effective upon its approval by the Governor or upon its becoming law
2 without such approval and shall apply to all offenses committed on or after such date.

3 **SECTION 6.**

- 4 All laws and parts of laws in conflict with this Act are repealed.